

### REMARKS

This response adds, changes and/or deletes claims in this application. A detailed listing is presented of all claims, with appropriate status identifiers, that are or were in the application, irrespective of whether the claim(s) remain under examination. More specifically, claims 25-37 and 125 are revised, claims 123, 124, and 126-128 are cancelled, and claim 129 is added currently. Upon entry of this response, claims 25-37, 125, and 129 will be pending.

In the March 24<sup>th</sup> action, Examiner Chowdhury imposed a restriction requirement, represented by four allegedly separate and distinct claim sets, I – IV. With traverse, applicants elect Group III, claims 25-32, 33, 34, 123, and 125-128.

Applicants traverse because the examiner's "separate and distinct" premise, which is central to the restriction, is contradicted by the sharing of several claims by all of the identified claim groups. The MANUAL OF PATENT EXAMINING PROCEDURE, §§ 809.02 and 809.3, requires that the PTO, in the context of a restriction requirement, identify any "linking" (generic) claims, which, by Examiner Chowdhury's own definition of overlapping Groups I – IV, clearly exist presently. See claim 25, for example.

Furthermore, a restriction requirement in this circumstance is conditional on the *non*-allowance of the linking claim(s). *Id.* Thus, it is typical PTO practice to require an applicant to elect a species to which the claims are restricted if no linking claim is found to be allowable. *See also* 37 CFR 1.146. Again, the March 24<sup>th</sup> action did not follow this practice.

In an effort to clarify the situation and to facilitate prosecution, applicants have combined the foregoing traversal with a revision of the claims, whereby sole independent claim 25 incorporates certain structural (sequence) recitations from claims 123 and 124, now cancelled. Accordingly, the streamlined claim set, as revised, includes linking claim 25 that prescribes a Markush group of separate amino acid-sequence species.

Applicants respectfully submit that, in keeping with PTO practice, Examiner Chowdhury could consider imposing a species-election requirement, with the understanding that, upon a determination of patentability as to the elected species, he will examine a

reasonable number of additional species. MPEP § 809.02 (Aug. 2001). In any event, the examiner is invited to contact the undersigned, should he feel that a telephone interview would advance prosecution.

Respectfully submitted,

Date 21 April 2006

By S. A. Bent

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5404  
Facsimile: (202) 672-5399

Stephen A. Bent  
Attorney for Applicants  
Registration No. 29,768

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.